

Strange Career and the Need for a Second Reconstruction of the History of Race Relations¹

I. Ambitions

From the beginning, C. Vann Woodward wanted to change the world by uncovering the truth. The remarkably ambitious goals of his doctoral dissertation, which eventually became *Tom Watson*, were not just to spotlight southern rebels -- proving that the South had never been solid, that it had a usable radical past, that the apparently timeless southern consensus had been shattered before, but also to find out what had gone wrong -- why his heroes had lost, what they had faced, and how they were flawed, so that readers could learn their lessons and perhaps avoid sharing their fate.² The same public purposes, many of the same themes, the same faith -- not that the truth will make you free; he was never blinded by that illusion; but the negative version of the platitude, that without the truth, we can never be free or equal -- also pervade *Reunion and Reaction*, *Origins of the New South*, and especially *The Strange Career of Jim Crow*.

These days, historians have filed the book away, misunderstood its aims, forgotten or denied its alternatives. Thus, Woodward's first biographer, John Herbert Roper, haughtily

¹An earlier version of this paper was given at a session on "The Continuing Career of Jim Crow," chaired by Sheldon Hackney, at the Southern Historical Association convention in 2005. I want to thank Vernon Burton for his many helpful comments.

²C. Vann Woodward, *Thinking Back: The Perils of Writing History* (Baton Rouge, Louisiana: LSU Press, 1986), 29-42; John Herbert Roper, *C. Vann Woodward, Southerner* (Athens, Georgia: University of Georgia Press, 1987), 75-79.

dismissed *Strange Career* as “most fatally flawed,” a book that “ignored racism by studying only legal formalism,” one whose implications for policy in the 1950s and 60s made it “most obviously dated in later years,” a work, therefore, whose “genius . . . was orchestration” – merely good timing.³ In an article commemorating the 50th anniversary of the book’s publication in the

³Roper, *C. Vann Woodward: A Southern Historian and His Critics* (Athens, Georgia and London: University of Georgia Press, 1997), 29; Roper, *C. Vann Woodward, Southerner*, 194-95, 198. Ironically, Roper, a student of Joel Williamson, one of the chief critics of *Strange Career*, reads *Strange Career* as, in effect, prefiguring Williamson’s interpretation of southern race relations. *C. Vann Woodward, Southerner*, 188-92. According to Roper, Woodward saw segregation laws and the upsurge of lynching in the 1890s as an irrational expression of lower-class white frustration with the economic depression of the decade, which caused them to scapegoat African-Americans, dragging formerly paternalistic aristocrats behind them in the Jim Crow movement. But this is inconsistent with Woodward’s notion of a post-1890s “soured Populism,” his careful differentiation between members of the Populist party *per se* and Democrats like Ben Tillman and James K. Vardaman, who used racist tactics to combat opponents of the Democratic party, and his indictment of “progressives,” not 1890s Populists, as the authors of disfranchisement. In his testimony before a subcommittee of the House Judiciary Committee on the renewal of the Voting Rights Act in 1981, for instance, Woodward remarked that “I think one of the great and pathetic ironies of our history is that the most reactionary period of racial legislation got tied with the name of ‘progressivism.’ That was the period when the great bulk of the discriminatory laws about voting and civil rights were put on the books . . .” *Hearings Before the Subcommittee on Civil and Constitutional Rights of the Committee on the*

Boston Globe, Stephen Kantrowitz remarked that “I’m not sure how important the book is for contemporary scholarship. The scholarship on Jim Crow has mutated into something quite different.” And Mark Smith patronized it as merely ornamental, remarking that “If ‘Strange Career’‘s arguments gradually lose historiographical purchase, at least it’ll keep alive an art form I sometimes worry is in danger of evaporating.”⁴

But *Strange Career* was no more a quaint decoration than it was merely a reinterpretation of history or just an effort to inspire public policy. The book’s revisionism attracted enormous attention and provoked, for a long while, considerable research, research that is no longer stylish, though it is not yet finished.⁵ Yet there was another, larger, less apparent purpose of the work that has been only very partially fulfilled – the creation of a new field, the history of race relations, as *Origins* created the new field of the history of the Post-Reconstruction South.⁶

This paper sketches broad trends in the history of American race relations in works

Judiciary, House of Representatives, Ninety-seventh Congress, First Session on Extension of the Voting Rights Act (Washington: U.S. Government Printing Office, 1982), 2024.

⁴Clay Risen, “Strange Career,” *Boston Globe*, July 17, 2005.

⁵Two convenient introductions to a portion of Woodward’s “Jim Crow Thesis” are Joel Williamson, ed., *The Origins of Segregation* (Lexington, Massachusetts: D.C. Heath and Co., 1968) and John David Smith, ed., *When Did Southern Segregation Begin?* (Boston and New York: Bedford/St. Martin’s, 2002).

⁶This aim is most fully on view in Woodward’s essay “The Strange Career of a Historical Controversy,” in his *American Counterpoint: Slavery and Racism in the North-South Dialogue* (Boston: Little, Brown, 1971), 234-60.

published since 1955, as well as general trends in actual race relations since that year, in an attempt to understand what forces have shaped those two trends and to propose a Woodwardian reorientation of the field. After *Strange Career* race relations history wandered for a time down a too-narrow path. More recently, it has unfortunately veered off course, concentrating on racial identity, rather than racial interaction;⁷ on violence, rather than vital statistics;⁸ on personal, rather than public politics.⁹ Too many historians, in this field and others, have succumbed to the fin-de-siecle temptations of romanticism and intellectual despair, awarding everyone agency and denying anyone domination,¹⁰ and doubting the possibility of knowledge, while seemingly smug

⁷E.g., Elizabeth Rauh Bethel, *The Roots of African-American Identity: Memory and History in Free Antebellum Communities* (New York: St. Martin's Press, 1997); Eddie S. Glaude, Jr., *Exodus! Religion, Race, and Nation in Early Nineteenth Century Black America* (Chicago: University of Chicago Press, 2000).

⁸Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge, Massachusetts: Harvard University Press, 2003), 8 spoke of "the paramilitary character of southern politics . . ."

⁹Eschewing synthesis as reductionist and a focus on "the limitations Southerners endured" as itself limited, Edward L. Ayers's *The Promise of the New South: Life After Reconstruction* (New York: Oxford University Press, 1992), viii-ix emphasized "a more active and intimate history" of the period in southern history that its predecessor, Woodward's *Origins*, had not considered "promising."

¹⁰Thus, Lawrence W. Levine, contended that "the most important intellectual breakthrough by historians in the past two decades" was their revised view of "the folk . . . as

in the assurance that they alone possess the truth.¹¹ In contrast to Woodward's emphasis on conflict and the possibility of change, many historians, often professed devotees of the political left, have ignored or dismissed distinctions between historical actors, promulgating an image of consensus in race relations that can only hamper effective action against discrimination.¹²

actors in their own right who, to a larger extent than we previously imagined, were able to build a culture, create alternatives, affect the situation they found themselves in, and influence the people they found themselves among." Levine, "The Unpredictable Past: Reflections on Recent American Historiography," *American Historical Review*, 94 (1989), 673. He applied assertions about informal political power to slavery in "Clio, Canons, and Culture," *Journal of American History* 80 (1993), 864: "Blacks during and after slavery were engaged in the most serious game of politics and exerted power of many kinds – especially cultural power, the importance of which we are just now beginning to appreciate." Hahn, *A Nation Under Our Feet*, 2-3, was concerned to a large extent with "how unfranchised and disfranchised people might conduct politics," and he considered slavery constructed around "the fictions of domination and submission."

The intensity of the struggles of African-Americans and women for the abolition of slavery and for their own enfranchisement and the all-out efforts of slaveholders and white and male supremacists to deny both groups equality suggest that historical actors put less stock in cultural power and more in institutionalized power than these historians later suggested.

¹¹See Kousser, "The New Postmodern Southern Political History," *Georgia Historical Quarterly*, 87 (2003), 427-48.

¹²The echoes of Ulrich B. Phillips's "central theme of southern history" in Joel Williamson's *The Crucible of Race: Black-White Relations in the American South Since*

Placing themselves outside the fray, historians in general, except those on the political right,¹³ have largely retreated from efforts to change the minds that shape the institutional rules of racial interaction. Some have voiced a despair about human nature so profound, and a conviction of the irrationality and unpredictability of human beings so deep as to paralyze efforts at racial or any other type of reform.¹⁴ Woodward initiated the field of comparative reconstruction. It is now time for a second reconstruction of the field of race relations history.

Emancipation (New York: Oxford University Press, 1984), 247-48, are deafening: “Behind it all, in politics as well as in everything else, it was white unanimity against blackness, molded rigid in a white culture monolithic, total, and tight, that put the black man either down or out.” Indeed, Williamson, 317-18, says that Phillips’s chief flaw was that he believed whites had to struggle to maintain white supremacy. Of course, Williamson condemned the alleged white consensus, while Phillips approved it.

¹³Most prominently, Stephan Thernstrom and Abigail Thernstrom, *America in Black and White: One Nation, Indivisible: Race in Modern America* (New York: Simon and Schuster, 1997); Abigail Thernstrom, *Voting Rights – And Wrongs: The Elusive Quest for Racially Fair Elections* (Washington, D.C.: AEI Press, 2009).

¹⁴Williamson, *The Crucible of Race*, 321: “. . . all people are liable to be mistaken in their perceptions, and to do horrible things in consequence.” Levine’s essay and book title, “The Unpredictable Past,” cloaks intellectual despair in cleverness. If one cannot analyze the past, when we have a pretty good idea how things came out, how can one possibly analyze the present sufficiently to frame a course of reformative action?

II. Propositions

Begun in research for the NAACP-LDF for *Brown v. Board of Education*, the short, but influential *Strange Career* was composed on the cusp of change from the legally segregated to the legally desegregated South. Woodward's guarded optimism about the future of race relations after *Brown* rested on four propositions – first, that institutions, not culture, had shaped southern race relations; second, that slavery and segregation were not equivalent, and that, more particularly, segregation had not immediately replaced slavery as a “natural” form of racial control or interaction; third, that the extreme domination of one race over the other was not inevitable, that there were “forgotten alternatives” to segregation and disfranchisement in the post-1877 South; and finally -- a proposition so fundamental as to remain unnoticed, perhaps even to Woodward, but which has emerged against the background of more recent static cultural treatments of the subject¹⁵ -- that race relations, like any other aspect of human relationships, could change and vary.

Strict, virtually uniform segregation was, Woodward asserted, the result of state and local

¹⁵Williamson, *Crucible of Race*; David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class* (London: Verso, 1991); Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, Mass.: Harvard University Press, 1998). For critiques of whiteness studies, see Eric Arnesen, “Whiteness and the Historians’ Imagination,” *International Labor and working-Class History*, 60 (2001), 3-32; Peter Kolchin, “Whiteness Studies: The New History of Race in America,” *Journal of American History*, 89 (2002), 154-73.

laws that regularized and policed previously untidy, frequently mixed, and in scattered instances, nearly egalitarian, if furtive, relations between people of different races. Whereas party competition, especially, Woodward thought, between Populists and Democrats, tended to preserve black rights and status, white Democratic desires to end both partisan opposition and any shreds of racial equality prevailed only through law.

As the Civil Rights Movement intensified and then retrenched in the 20 years after *Brown*, and as national administrations moved from tepid support of black civil rights under Dwight Eisenhower, to enthusiastic co-optation under Lyndon Johnson, to politicized backlash under Richard Nixon, *Strange Career* went through three editions that mirrored the times.¹⁶ Even more than in the first edition, the later versions emphasized changes that might lurch forward or backward and the profound difficulty of sustaining policies that benefitted minorities. At the time of the earlier classic, Gunnar Myrdal's *An American Dilemma*, it had seemed to many people of good will that all America needed to do to solve its race problem was for whites to recognize the inconsistency between racial discrimination and the egalitarian American Creed.¹⁷

But by 1974, it was clear to Woodward and nearly everyone else that ideological consistency was at best only a first step. There is an Olympian despair about the third and last

¹⁶Woodward's next paragraph after discussing the passage of the Voting Rights Act in the Third Revised Edition begins: "For a very brief interval the optimists had things their way." (Woodward 1974, 186)

¹⁷Myrdal, *An American Dilemma: The Negro Problem and American Democracy* (New York: Harper & Row, 1944), lxxi.

revised edition of *Strange Career*, as the decade after the passage of the two major national civil rights laws brought a seeming abandonment on the part of both blacks and whites of the nonviolent methods that inspired the movement for the laws and the integrationist ideals that both the movement and the laws embodied. Victory over segregation was no sooner declared than it was reversed. By the time of *Milliken v. Bradley*, the 1974 case that ended the possibility of metropolitan desegregation in the North,¹⁸ the federal courts and executive branch, which had wielded the chief tools to unravel racial inequality, had apparently become the engines of its reinforcement.

Yet ironically, the uneven decline of discrimination during the generation after the first edition of *Strange Career*, so depressing to Woodward and those who shared his hopes, had subtly supported his position. The abrupt demise of segregation in public accommodations (restaurants, buses, hotels and motels, etc.)¹⁹ after the passage of the 1964 Civil Rights Act should have convinced everyone that the core of Woodward's argument about the dependence of segregation on law had been validated, and the surge in African-American voter registration after the passage of the 1965 Voting Rights Act should have added more evidence.²⁰ The fact that school, housing, and employment discrimination took longer to diminish²¹ should have undermined cultural explanations of discrimination, which argued that discrimination is all of a

¹⁸418 U.S. 717.

¹⁹These trends will be discussed at somewhat greater length later in this essay.

²⁰Gavin Wright, *Sharing the Prize: The Economics of the Civil Rights Revolution in the American South* (Cambridge, Mass.: Harvard University Press, 2013), 188.

²¹Wright, *Sharing the Prize*, 105-82.

piece, independent of governmental action. Events after the 1955 first edition of *Strange Career*, in other words, should have been seen to offer broad support for its findings, for they proved once again that no system of race relations -- not slavery, not segregation, not integration -- is “natural,” and that each has sub-systems (e.g., political, social, economic) that do not necessarily develop in sync with each other. All systems and sub-systems depend on institutional rules and capabilities; all vary and change. Ultimately, all are about power. Race relations, the events of the 1950s, 60s, and 70s demonstrated, are politically constructed.

III. Evaluations

But historians ignored the lessons of the present -- unfortunately, in my view²² -- in assessing what became known as “the Woodward thesis.”²³ The first scholars to test it examined

²²While distorting the analysis of past events in order to justify policies or points of view in the present represents bias, reexamining explanations of past events in light of more recent events may be just another form of comparative history, deepening and/or calling into question analyses of the past. In this instance, the quite different, uneven trajectories of discrimination in different areas of social, political, and economic life, as well as the stark regional and urban-rural differences in those trajectories, casts significant doubt on the causal sufficiency of cultural explanations of earlier patterns of discrimination.

²³As a hypothesis, it could be clarified, tested, amended, extended, or rejected, and it attracted the attention of scholars who sought to perform any of these actions. By contrast, in the postmodern idiom, which Woodward did not find attractive, an “interpretation” can only be

small, isolated, largely static examples, rather than making large, explicitly comparative studies of change, though larger historical studies began to appear in the 1980s,²⁴ and this approach still lives, especially in the work of Rebecca J. Scott, Anthony Marx, and Richard Valelly.²⁵ The initial articles and monographs typically focused on a single state and looked for evidence of the

catalogued and added to other, incommensurable, compatible, irrefutable points of view about the past. The controversy over the Jim Crow Thesis was itself productive of much historical knowledge and learning, and it might serve as a paradigm about how historical scholarship ought to develop.

²⁴The foremost of these comparative studies agreed broadly with Woodward's approach, though it summarily, without detailed discussion, concluded that post-Reconstruction race relations were less open than Woodward suggested. Discrimination "depends comparatively little on individual attitudes and much more on the racism that is ingrained in institutions. . . . Segregation is created and enforced by power. It is a political phenomenon." John W. Cell, *The Highest Stage of White Supremacy: The Origins of Segregation in South Africa and the American South* (New York: Cambridge University Press, 1982), 8, 17 for the quotations and 82-102 for the more specific evaluation.

²⁵Rebecca J. Scott, *Degrees of Freedom: Louisiana and Cuba After Slavery* (Cambridge, Mass.: Harvard University Press, 2005); Anthony W. Marx, *Making Race and Nation: A Comparison of South Africa, the United States, and Brazil* (New York: Cambridge University Press, 1998); Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: University of Chicago Press, 2004).

extent of segregation before the passage of state Jim Crow laws.²⁶ That evidence was scattered, instead of systematic; what constituted a “test” was difficult to agree upon; and whether segregation should be considered an inflexibly intertwined social system or a practice that might differ in various social, political, and economic realms, was not resolved, and in many cases, not even acknowledged.

Consider, first, the evidence. If one found few newspaper stories or letters or diary entries or court cases on railroad or streetcar or hotel segregation during the 1870s and 80s in a southern state, did that mean that integration had been unthinkable, or that it had been unremarkable, that segregation had been unchallenged, or that it had not needed to be challenged? How was one to know whether African-Americans had ridden in the smoking cars of trains because they were forced there, or because they could not afford first-class tickets? How was it possible, on such evidence, to gauge what was usual and what was unusual? Was there a difference between the extent of segregation as indexed by each of the three statistical measures of central tendency – the mean (the arithmetic average), the median (the number in the middle of a set of ordered numbers), and the mode (the most common number)? If such concepts seem impossibly precise in summarizing such a vague state of evidence, does that in itself not suggest caution in blanket assertions about the general tendencies of social relations?

And what if it was easier to be precise about the degree of discrimination in one area of

²⁶The best, which actually preceded the publication of *Strange Career*, was George Brown Tindall’s nuanced *South Carolina Negroes, 1877-1900* (Columbia, S.C.: University of South Carolina Press, 1952), 291-302, which carefully traced the development of segregation over time and distinguished between different areas of social and political life.

race relations than another? In particular, although it might be impossible on current evidence to determine just how segregated trains or hotels or other public accommodations were before the imposition of explicit segregation laws, it has become quite possible since the development of “ecological regression” in the 1950s, to recover voting turnout rates and racial voting patterns for candidates and parties in southern elections from the 1860s on. If the Jim Crow thesis includes suffrage restriction, which Woodward certainly believed, and if the evidence from statistical studies of southern voting in the Post-Reconstruction South is both much more solid than that about public accommodations and more clearly supportive of a later date for the perfection of the system of discrimination and an institutional means for accomplishing that perfection, which it certainly is, then ought we not to conclude that the Jim Crow thesis is alive and well?²⁷

Second, reflect on the tests. Should Woodward be read as claiming that the typical experience of African-Americans until the late 19th century was integrated, or only that their experience of segregation was much less uniform than it later became? Thus, Charles E. Wynes adopted both interpretations, concluding that “the most distinguishing factor in the complexity of social relations between the races [in Virginia], was that of inconsistency. From 1870-1900, there was no generally accepted code of racial mores. It is perhaps true that in a majority of the cases where a Negro presumed to demand equal treatment – in hotels, restaurants, theatres, and bars, and even on the railroads – he was more likely to meet rejection than acceptance.”²⁸ The

²⁷See Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven, Connecticut: Yale University Press, 1974).

²⁸Wynes, *Race Relations in Virginia, 1870-1902* (Charlottesville, Virginia: University of

most influential challenge to Woodward's position was by Joel Williamson on the entirely atypical – more heavily black, more dependent on cotton, with the weakest tradition of democratic political competition -- state of South Carolina. Williamson read Woodward's thesis as an assertion about average experiences in what Williamson paints as a society that was nearly static in the 19th century, making his rejection of the Woodward thesis virtually automatic.²⁹ Others, most notably John William Graves, in his marvelous book on the understudied state of Arkansas, read the thesis as an assertion about variation and found that the evidence supported it.³⁰

Third, is the Jim Crow thesis about specific social behavior or general culture or even more vaguely, about thought or feeling? Woodward was admittedly not altogether clear about this, but Williamson was: "The real color line," he declared, "lived in the minds of individuals of

Virginia Press, 1961), 68-83, excerpted in Williamson, *Origins of Segregation*, 20-31, quotes at 20-21. Note the careful and tentative nature of Wynes's judgment: "perhaps . . . more likely . . ." Strangely, Williamson glosses this excerpt as "challeng[ing] the extent of fluidity in race relations" that Woodward had highlighted in *Strange Career*. Williamson, *Origins of Segregation*, 20.

²⁹Williamson, *After Slavery: The Negro in South Carolina During Reconstruction, 1861-1877* (Chapel Hill, North Carolina: University of North Carolina Press, 1965), 274-99.

³⁰Graves, *Town and Country: Race Relations in an Urban-Rural Context, Arkansas, 1865-1905* (Fayetteville, Arkansas and London: University of Arkansas Press, 1990). Similarly, see Joseph H. Cartwright, *The Triumph of Jim Crow: Tennessee Race Relations in the 1880s* (Knoxville, Tennessee: University of Tennessee Press, 1976).

each race, and it had achieved full growth even before freedom for the Negro was born. Physical separation merely symbolized and reinforced mental separation.”³¹ This forthright statement encapsulates the view of what might be called the “Berkeley School of the history of race relations,” encompassing Williamson, who received his Ph.D. thesis at Berkeley, and Leon Litwack and Lawrence Levine, both of whom long taught at that branch of the University of California. In this cultural-intellectual view, all whites felt “separated” from African-Americans, and this fact mattered much more than the form of behavior in which the mental separation was manifest – slavery, segregation, or even integration. Echoing Williamson, Litwack titled his major work on black history *Trouble in Mind*³² (my emphasis.) Although evidence about racial thought or feeling can be measured at least somewhat systematically even before attitude surveys began,³³ Williamson, Litwack, and others made no attempt to do so.

The Berkeley school emphasized violence and discounted any cross-racial alliances. Where Woodward had memorably recounted the gathering of hundreds of Georgia Populists to protect a black Populist minister, Rev. Seb Doyle, during Tom Watson’s 1892 campaign for

³¹*After Slavery*, 298. Or as he put it in *The Crucible of Race*, p. 318, “Race, in brief, is a problem of the mind”

³²*Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Alfred A. Knopf, 1998).

³³See, for example, Kousser, ““The Supremacy of Equal Rights’: The Struggle Against Racial Discrimination in Antebellum Massachusetts and the Foundations of the Fourteenth Amendment,” *Northwestern University Law Review* 82 (1988), 970-72.

Congress,³⁴ Williamson spotlighted mobs of white southern men, displaced from their roles as breadwinners by the depression of the 1890s, seeking to reestablish control over their restive wives by lynching alleged black rapists. Their actions were completely irrational and utterly unpredictable: “Anytime, anyplace, white people in large crowds might suddenly fall into a frenzy and lynch a black person.”³⁵ What would falsify such a contention – a demonstration of the instrumental employment of violence, such as Woodward’s example of Democratic attempts to stop a black preacher from speaking in favor of a white Populist, or perhaps the observation that interracial lynching, however horrible, was much less prevalent than other forms of violence or crime, and that patterns in it could be discerned?³⁶ Somewhat less excitedly Leon Litwack emphasized the “terror, intimidation, and violence” that whites employed to “doom Reconstruction” and the “violence and the fear of violence” that “helped to shape black lives and personalities” from then through the Great Migration to the North during World War I, and he completely discounted any instances of white political “collaboration” with blacks, whether under the banner of Populism or Republicanism.³⁷ But Reconstruction-era African-Americans

³⁴Woodward, *Tom Watson, Agrarian Rebel* (New York: The Macmillan Co., 1938), 239-40.

³⁵Williamson, “Wounds, Not Scars: Lynching, the National Conscience, and the American Historian,” *Journal of American History*, 83 (1997), 1228.

³⁶Stewart E. Tolnay and E.M. Beck, *A Festival of Violence: An Analysis of Southern Lynchings, 1882-1930* (Champaign, Illinois: University of Illinois Press, 1995).

³⁷Litwack, *Trouble in Mind*, xiii, xvi, 221-22.

had an amazing ability to overcome violence,³⁸ and partisan politics in which blacks played major roles continued to be vigorous until laws and constitutional amendments brought it to an end after 1890.³⁹

Although eschewing explicit references to social psychology or sociology, the Berkeley School often reduced race relations to some assertedly more fundamental conflict, usually sexual or perhaps sexual-economic, for which evidence was purely rhetorical, if it existed at all. Wielding only quotations from novelist Thomas Nelson Page and unenfranchised feminist radical Rebecca Latimer Felton, Litwack asserted that the motive for the disfranchisement of black voters was sexual: “To bar the black man from the polling place was to bar him from the bedroom. If blacks voted with whites as equals, they would insist on living and sleeping with whites as equals, and no white Southerner could contemplate such degradation. . . . The issue was not black political power,” he concluded⁴⁰ without examining the plentiful evidence that the issue was, indeed, black and white oppositional power.⁴¹ Relying primarily on his own untestable intuitions, Williamson postulated even more grandiosely that “the Negro was a scapegoat in the turn-of-the-century South, that whites were having difficulty coping with a burgeoning industrial-commercial-political order as it impacted upon a social-psychological-sexual order earlier generated, and that in that crisis they used the Negro in constructing an

³⁸Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill, North Carolina: University of North Carolina Press, 1999), 23-24.

³⁹Kousser, *Shaping of Southern Politics*.

⁴⁰Litwack, *Trouble in Mind*, 221.

⁴¹Kousser, *Shaping of Southern Politics*, especially 238-46.

illusion that they were indeed managing their lives in important ways.”⁴² What skein of social facts, paired with what all-powerful social psychological theory, would be necessary to validate such assertions? Compared to such cultural mystification, the Jim Crow Thesis was a model of clarity and testability.

Fourth, how are different spheres of social relations connected, and how should contradictory trends in the different spheres weigh for and against the Jim Crow Thesis? Was school segregation, apparently almost universal in the South after emancipation, except in New Orleans, evidence for the pervasiveness of segregation, or, because segregation was less strictly adhered to in other spheres, was school segregation actually evidence that separation required legal enforcement? Were black churches, so comforting to southern whites as evidence that “they” wanted to be with “their own kind,” instead supportive of the connection between systems of racial interaction and power? That is, in spheres of activity in which blacks could attain power only in segregated institutions, such as churches, they preferred segregation; whereas, in institutions where they could enjoy power only by mixing with whites, such as legislatures, they preferred integration – the common denominator, more compelling than social preferences, being the search for power. Focusing on schools and churches, Williamson depicted segregation as “the Negro’s answer to discrimination,” though he also noted that the black political leadership

⁴²Williamson, *The Crucible of Race*, 318. Some years later, the economic edge of the scapegoat thesis was sliced off, leaving only gender: “. . .the real war, the essence of the conflict, concerned gender, not race, and . . . lynching and even disfranchisement, segregation, and proscription had more to do with relations between white men and white women than with relations between blacks and whites. . . .” Williamson, “Wounds, Not Scars,” 1253.

insisted on integrated public accommodations by law. He apparently did not consider these two judgments contradictory.⁴³

How did the Jim Crow thesis apply to the political sphere, in which blacks remained active participants long after schools and churches, and some railroads and streetcars were segregated? How did disfranchisement, which was not a “horizontal,” but a “vertical” division, more like exclusion than it was like segregation, fit into the assessment of *Strange Career*? What was the implication of the fact that poor white suffrage was restricted, as well? What of the economic sphere, where only in large cities could there be a semblance of a separate black economy? In small towns and rural areas of the South, whites were much more economically powerful than blacks, but the two races were interdependent and incompletely segregated. In southern cities, small neighborhood clusters of racial concentrations only became concentrated into large racial housing blocs after the 1890s, and they were often enforced by explicitly racial zoning restrictions. Should one count the early minimal segregation as evidence of racial preferences for separation or the delayed appearance of “colored towns” and racial zoning ordinances evidence for the Jim Crow Thesis?⁴⁴

The rural and urban contrast in the economy is part of what might be termed the principal paradox of segregation: social segregation was more characteristic of “modern” than of “traditional” sectors of society, of urban, rather than rural areas, and thus, during the antebellum

⁴³*After Slavery*, 278-79.

⁴⁴For a discussion and references to many other metropolitan studies, see Thomas W. Hanchett, *Sorting Out the New South City: Race, Class, and Urban Development in Charlotte, 1875-1975* (Chapel Hill, North Carolina: University of North Carolina Press, 1998), 116-144.

period, of the North, rather than of the South.⁴⁵ Scholars have often drawn misleading implications from the modernity of segregation. One possible conclusion is that segregation was natural and did not need laws to establish it. But the conclusion is wrong because the observation is incomplete. The first state to take comprehensive action against legal segregation – i.e., to repeal laws against racial intermarriage, to end railroad segregation, and to mandate school integration -- was the most modern antebellum commonwealth, Massachusetts.⁴⁶ By 1890, all of the ex-free states with any appreciable number of African-Americans except Indiana had followed the Bay State's example by repealing their "black laws" and passing public accommodations and school integration laws.⁴⁷

Although the correlation between modernization and segregation was negative in the 19th and much of the 20th century North (the more modern the society, the less segregated), it seems to have been positive in most of the 19th century South, as well as in South Africa.⁴⁸ What are the implications of this fact? First, segregation is merely one form of racial discrimination, and often not the harshest. Slavery and poorly paid agricultural wage labor usually required constant monitoring and strict authoritarian control. Second, there is only a tenuous connection between

⁴⁵A convenient short introduction is in the selections by Richard C. Wade and Leon Litwack in Williamson, ed., *Origins of Segregation*, 81-95.

⁴⁶Kousser, "'Supremacy of Equal Rights.'"

⁴⁷Kousser, "'The Onward March of Right Principles': State Legislative Actions on Racial Discrimination in Schools in Nineteenth-Century America," *Historical Methods*, 35 (2002), 177-204.

⁴⁸Cell, *Highest Stage of White Supremacy*.

segregation, slavery, or any other system of discrimination, on the one hand, and, on the other hand, an undifferentiated racism of ideas, either informal or highly theorized. The harshest and most fervent and frequent expressions of racism came from those whites who lived with the largest proportion of African-Americans, but segregation, as well as anti-segregation movements, were products of the usually whiter, more cosmopolitan cities, where less benighted racial attitudes were much more common.⁴⁹ Perhaps demonstrations of the intricate connections between segregation and socioeconomic modernization will finally convince historians to accept what social psychologists have been demonstrating since the 1930s – that the connections between racial attitudes and behavior are weak.⁵⁰ Historians should cease to treat evidence of

⁴⁹Although there were no direct, comprehensive measures of racial attitudes before the 1940s, V.O. Key's *Southern Politics in State and Nation* (New York: Vintage Books, 1949), 5, famously found that in the first half of the 20th century, voters in the "Black Belt," the counties over about half black, had "the deepest and most immediate concern about the maintenance of white supremacy," and more direct survey evidence gathered more recently confirms that the relationship between racial environment and white racial attitudes in the South continues strong. For a summary, see James M. Glaser, "Back to the Black Belt: Racial Environment and White Racial Attitudes in the South," *Journal of Politics*, 56 (1994), 21-41.

⁵⁰Social psychological research on attitudes about groups increasingly relies on implicit, rather than explicit measures of attitudes and finds correlations between implicit and explicit measures themselves, and between either and behavior rather complex. See, for a recent review, Gerd Bohner and Nina Dickel, "Attitudes and Attitude Change," *Annual Review of Psychology*, 62 (2011), 391-417. The most important implication for historical research on race-related

cultural attitudes about race relations as a perfect proxy or unproblematic cause of discriminatory behavior.

Third, the view of southern segregation as primarily an urban phenomenon adds support to Woodward's position, for southern cities, again with the exception of New Orleans, grew large only in the late 19th century. Laws were more necessary to enforce social norms in cities than in rural and small-town societies. Outside of cities, informal enforcement mechanisms, from forms of torture to less dramatic expressions of disapproval, were usually sufficient to maintain a racial hierarchy.

IV. Emendations

The Jim Crow Thesis stimulated not only efforts to affirm or deny it, but also attempts to amend or add to it. Following suggestions by Joel Williamson, Howard Rabinowitz viewed segregation as a positive step forward for African-Americans, an alternative both to slavery and to total exclusion from such institutions as public schools,⁵¹ though not as desirable as the full integration that Radical Republicans preferred and that seven southern legislatures endorsed, at least for public accommodations, during Reconstruction. Interpreting Woodward as speaking primarily about public accommodations, Rabinowitz granted that there was noticeable integration in at least second-class railway cars before the passage of Jim Crow laws and that

behavior is that it may well differ from explicit, seemingly-related statements.

⁵¹Rabinowitz, *Race, Ethnicity, and Urbanization: Selected Essays* by Howard N. Rabinowitz (Columbia, Missouri: University of Missouri Press, 1994), which contains a complete bibliography of the controversy over *Strange Career*, up to that point, 26-28.

blacks continued to vote and hold office until legal disfranchisement, but contended that in almost all other areas of southern life in the Reconstruction and post-Reconstruction life, especially schools, segregation was the predominant pattern. On even less evidence, he speculated that segregation and disfranchisement were not as total and rigid after the passage of the nominally strict laws as Woodward had assumed.⁵²

The Rabinowitz Exclusion Thesis suffers from many of the problems already outlined. It treats all areas of behavior as highly correlated, while admitting that some were exceptions. It has no explicit index of practice in any area, and unlike the Jim Crow Thesis, which only needs a few examples to demonstrate a lack of uniformity, the Rabinowitz Thesis must demonstrate some central tendency, which would seem to require measurement. It does not fit politics at all, for in this sphere, integration is the only mode of participation, and exclusion comes not only at the beginning, in the antebellum period and the Black Codes, but also at the end, in disfranchisement. It applies primarily to cities, for segregation was impossible in rural areas and even small towns. Yet the South was overwhelmingly rural from 1865 to 1900, areas containing 4,000 or more people constituting only 13.5% of the population of the South Central states and 19.6% of that of the South Atlantic states in 1900.⁵³

But Rabinowitz's was not the only important amendment. Curiously for an Arkansan, Woodward had asserted, without any very systematic recital of evidence, that "the newer states [i.e., those further west, which had come into the Union later] were inclined to resort to Jim Crow laws earlier than the older commonwealths of the seaboard, and there is evidence that

⁵²*Race, Ethnicity, and Urbanization*, 28-31.

⁵³*Twelfth Census, 1900* (Washington, D.C.: Government Printing Office, 1901), lxxxvi.

segregation and discrimination became more generally practiced before they became law.”⁵⁴

John William Graves, however, suggested that if the sub-regional observation is true, it represents a genuine Woodwardian irony, the earlier passage of Jim Crow laws in the “newer states” representing a backlash against a more fluid race relations there, as compared with the more settled pattern of discrimination in the eastern commonwealths. At least in Arkansas, African-Americans, Graves concluded, “may have received more humane treatment and enjoyed more real opportunity” because society was “less structured” and “social relationships were less constrained by inherited mores, at least in their rapidly developing cities and towns.”⁵⁵

But there are other possible and interesting extensions of the Jim Crow thesis, especially if it is considered more broadly as one concerned with the connections between institutions and patterns of race relations in many periods. Reversing Woodward’s time frame – he argued from 19th century history that the pattern of race relations in the 20th century could change; I will argue from trends in the 20th and 21st centuries that patterns of race relations in the 19th need to be reexamined – may prove productive.

V. Fluctuations

⁵⁴Woodward, *Strange Career*, 41.

⁵⁵Graves, *Town and Country*, 228. The unsettled nature of race relations in frontier societies is a recurrent theme from William Faulkner’s *Absolom, Absolom!* (New York: Random House, 1936), one of Woodward’s favorite books, to Ira Berlin’s *Many Thousands Gone: The First Two Centuries of Slavery in North America* (Cambridge, Massachusetts: Harvard University Press, 1998).

Trends in the world outside the academy have always affected the way race relations history is written, and they should, because the recent past may provide sufficiently different conditions as to throw light on previous events. When Woodward gave the lectures that became *Strange Career*, the southern system of segregation and discrimination seemed completely intertwined, tightly bound. Extreme pessimists believed that it had always been that way and always would be. Extreme optimists believed that if one string were loosened, the whole fabric would quickly unravel. They were both wrong. Some sections of weaving were denser than others – and they were not the ones that many people thought.

That since 1954, segregation and discrimination have ebbed and flowed in quite different rhythms in different areas of social, political, and economic life, as well as in different regions and demographic areas (cities, suburbs), suggests three major observations. I will initially assert these observations, then provide skeletal evidence for and discussion of them: First, the tight matrix of segregation and discrimination in the first half of the 20th century in the South was unusual, not typical. Discrimination in societies is more often uneven, fractured, disorganized. It is the unusually-connected structure that made the Jim Crow Era distinctive and that needs to be accounted for, and pure prejudice will not suffice as an explanation. Prejudice guides, rather than drives discrimination. It is the steering wheel, not the engine. Second, some of the other common explanations for the existence, growth, or persistence of discrimination should not be maintained, in light of recent American experiences. In particular, the post-*Brown* era casts doubt on the importance of sexual or psychosocial causes of discrimination. Third, the pattern of variations and trends, and broad, tentative explanations of those fluctuations suggest a

framework for analyzing changes in race relations.

How have post-Brown race relations varied in different facets of society? After an intense, but comparatively short struggle bracketed by the Montgomery bus boycott and the 1964 Civil Rights Act, segregation in public accommodations (restaurants, hotels, theaters, and the like), the symbolic heart of Jim Crow, completely collapsed.⁵⁶ By 1965, integrated groups could eat at restaurants and stay in motels in the deepest parts of the Deep South without attracting overt hostility. In the summer of 1965, the U.S. Commission on Civil Rights, where I was interning, held a very integrated conference on implementation of the 1964 Civil Rights Act in Demopolis, in the heart of Black Belt Alabama, incidentally putting Section 2 of that Act into active practice in the surrounding area without the least sign of an incident. As someone who had grown up in the segregated South, I was amazed at the instant integration of traditional southern hospitality.

Black political rights and power followed a different course. Political segregation ended abruptly, in a sense, with the abolition of the white primary in 1944, but it took innumerable registration drives and largely unsuccessful political campaigns, two civil rights laws and the

⁵⁶Richard Cortner, *Civil Rights and Public Accommodations: The Heart of Atlanta and McClung Cases* (Lawrence, Kansas: University Press of Kansas, 2001), 6, 29, 64; Benjamin Muse, *The American Negro Revolution* (Bloomington, Indiana: Indiana University Press, 1968), 75, 156-57. I of course do not deny the extensive efforts against segregation in public accommodations in the 19th century and earlier in the 20th. Integrationists certainly had many successes at the state and local levels. But they did not for a long time manage national successes. There was a considerable break between the 1875 Civil Rights Act and that of 1964.

Voting Rights Act of 1965, and numerous court challenges, before the first African-American members of Congress were elected from the 20th century South, in 1972. The judicial backlash of *Beer v. U.S.* and *Mobile v. Bolden*, in 1976 and 1980, respectively,⁵⁷ was partially reversed in the renewed Voting Rights Act of 1982, but minority political rights suffered a series of grave defeats beginning with *Shaw v. Reno* in 1993.⁵⁸ The hostility of a 5-4 Supreme Court majority climaxed in the Court's 2013 declaration that the coverage scheme for the requirement that some state and local jurisdictions "pre-clear" changes in their election laws before putting them into effect was so unfair to the white South as to deny an implicit constitutional principle of "equal [state] sovereignty."⁵⁹ The majority believed that what George Wallace would have termed "states' rights" outweighed the explicitly-stated principle of equal protection of the law,

⁵⁷*Beer*, 425 U.S. 130 (1976), held that changes in election laws could only be denied "pre-clearance" under Section 5 of the Voting Rights Act if they made minorities worse off than under the previous law, not merely if the laws had a discriminatory effect. *Bolden*, 446 U.S. 55 (1980), ruled that election laws could be declared illegal under Section 2 of the Voting Rights Act only if it was proven that they had a discriminatory intent, not merely when a discriminatory effect was shown.

⁵⁸509 U.S. 630 (1993). *Shaw* held that whites had standing to challenge a "racial gerrymander" in favor of minorities even if they could not prove that the districting scheme injured them. On this and related legal cases, see generally, Kousser, *Colorblind Injustice*; Kousser, "The Strange, Ironic Career of Section Five of the Voting Rights Act," *Texas Law Review*, 86 (2008), 667-775.

⁵⁹*Shelby County v. Holder*, 133 S.Ct. 2612 (2013).

guaranteed to individuals by the fourteenth and fifteenth amendments, regardless of the individuals' race.

“Deliberate speed” in the desegregation of schools was very slow, indeed, until Health, Education, and Welfare Department directives in 1967 and the Supreme Court’s “root and branch” *Green v. New Kent County* decision in 1968.⁶⁰ The 1971 *Swann* case in Charlotte increased the pace of desegregation, but in 1974, *Milliken v. Bradley* slowed it markedly by adopting a judicial ban on requiring integration across school district lines.⁶¹ In 2007, the same 5-4 majority on the Supreme Court that later protected state and local power to dilute the votes of racial minorities struck down state and local power to take any action to integrate public

⁶⁰*Green* outlawed “freedom of choice” plans that had been used to delay desegregation, ruling that racial discrimination had to be “eliminated root and branch.” 391 U.S. 430, at 438 (1968).

⁶¹The best introduction is a series of books by Gary Orfield, some with coauthors: *The Reconstruction of Southern Education: The Schools and the 1964 Civil Rights Act* (New York: John Wiley and Sons, 1969); *Must We Bus? Segregated Schools and National Policy* (Washington, D.C.: Brookings Institution, 1978); *The Closing Door: Conservative Policy and Black Opportunity* (Chicago: University of Chicago Press, 1991); *Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education* (New York: New Press, 1996); *School Resegregation: Must the South Turn Back?* (Chapel Hill, North Carolina: University of North Carolina Press, 2005); *Lessons in Integration: Realizing the Promise of Racial Diversity in American Schools* (Charlottesville, Virginia: University of Virginia Press, 2007).

schools.⁶²

Housing discrimination, more widespread than public accommodations restrictions before *Brown*, has been linked since then with the integration of schools. Despite numerous state and a few national laws against housing bias, it continues strong, anchored in the self-interest of Anglos who fear that having “too many” minorities in a neighborhood will signal deterioration, eroding their investments.⁶³

Job discrimination has been easier to attack and monitor, at least in large organizations, especially public ones, and despite the fact that members of different races working side by side in conditions of relative equality would seem most threatening to the social and economic status of the groups initially on top, factories and offices seem much more integrated than homes or schools. Affirmative action laws have worked just as a reader of *Strange Career* would have predicted.⁶⁴

⁶²*Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007).

⁶³Douglas Massey and Nancy Denton, *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, Massachusetts: Harvard University Press, 1993); and for a more current overview, Vincent J. Roscigno, Diana L. Karafin, and Griff Tester, “The Complexities and Processes of Racial Housing Discrimination,” *Social Problems*, 56 (2009), 49-69.

⁶⁴The best sources are many papers by economist James Heckman, many with coauthors, including “The Impact of the Economy and the State on the Economic Status of Blacks: A Study of South Carolina,” in David Galenson, ed., *Markets and Institutions* (New York: Cambridge University Press, 1989), 321-43; “Determining the Impact of Federal Antidiscrimination Policy on the Economic Status of Blacks: A Study of South Carolina,” *American Economic Review*

Although southern racists who played the sex card so long and so loudly would be as amazed as they would be appalled, anti-racial-intermarriage laws were the easiest to overthrow, dissolving in the *Loving* case of 1967, with remarkably little protest, and not a shred of the predicted cultural terror.⁶⁵

One new, or rather, expanded form of discrimination has arisen, the incarceration, primarily through arrests for possession of narcotics, of as many as a quarter of young black men, blighting their subsequent employment opportunities, reducing the black vote through felon disfranchisement laws, and, because of its severe disruption of the black nuclear family and

(1989), 138-77; “Affirmative Action and Black Employment,” *Proceedings of the Industrial Relations Research Association*, 41 (1989), 320-29; “The Central Role of the South in Accounting for the Economic Progress of Black Americans,” *Papers and Proceedings of the American Economic Association* (1990),; “Racial Disparity and Employment Discrimination Law: An Economic Perspective,” *Yale Law and Policy Review* (1990), 276-98; “Continuous vs. Episodic Change: The Impact of Affirmative Action and Civil Rights Policy on the Economic Status of Blacks,” *Journal of Economic Literature* (1991), 1603-43.

⁶⁵388 U.S. 1 (1967). See Peter Wallenstein, *Tell the Court I Love My Wife: Race, Marriage, and Law – An American History* (New York: Palgrave Macmillan, 2002). By 2012, only about 10% of the American public thought that increased racial intermarriage had been bad for American society, and 17.1% of black newlyweds married someone of a different race. See Wendy Wang, “The Rise of Intermarriage: Rates, Characteristics Vary by Race and Gender,” Pew Research, Feb. 16, 2012, available at <<http://www.pewsocialtrends.org/2012/02/16/the-rise-of-intermarriage/2/#chapter-1-overview>>.

interruption of African-American wealth accumulation, damaging the prospects of subsequent generations.⁶⁶

These different facets of the Jim Crow system have unraveled at different rates and to different extents, I suggest, because race relations are not segregated from other interests and values, and because they are affected by different, sometimes changing institutional constraints. Two schematic figures may serve to emphasize the forces outside of what we normally consider race relations, the institutional barriers to or drivers of racial equality, and the possibility that changes in the forces, as well as the institutions, may bring about racial change.

Figure 1 portrays the system of public accommodations segregation laws and the forces that maintained and then disrupted that system. On the left of the diagram are two forces, the ideology of white supremacy and its relevant economic manifestation, the willingness of whites to pay more for segregated trains, restaurants, hotels than they would have had to if the consumer bases of those accommodations were larger, by allowing African-Americans to partake of them. In fact, whites managed to shift most of these costs to blacks by providing blacks with only inferior facilities, such as second-class train cars, inferior hotels, etc. On the right of the diagram are forces pushing for more equality, Myrdal's "American Creed" of equal opportunity and the desire of businesspersons for the higher revenues that more customers would bring. There are two arrows pointing from each of the factors on the left, because during the era of Jim Crow, they were stronger than the factors on the right. As segregation became more expensive to maintain, especially when African-Americans boycotted downtown stores during the sit-ins, and

⁶⁶Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2011)

as the Civil Rights Movement so skillfully drew attention to the American Creed, the forces on the left eroded, and those on the right strengthened. When the segregation laws, which had almost all been repealed in the North in the 19th century, were overturned by the national courts, a force from outside the South, and integrated public accommodations were mandated, the forces of white supremacist ideology were no longer enough to maintain segregation, and whites' behavior, especially that of owners of businesses, shifted very rapidly.

(Figure 1 about here.)

Figure 2 schematizes the system that disfranchised and eventually re-enfranchised African-Americans in the South. Again, the white supremacist and equal opportunity ideologies confronted each other, and nationally, at least for voting, they seem to have been approximately balanced throughout the period from 1870 on. What determined the fate of disfranchisement measures, it seems to me, was not so much racial attitudes *per se* as the shifting interests of the Democratic and Republican parties, both in the South and in the nation, and three institutional constraints: Supreme Court opinions, the filibuster in the U.S. Senate, and the federal system that restrained national government power over state voting regulations. Once African-Americans were enfranchised in the South in 1867, Democrats could not secure national victory if southern blacks voted without restraint and those votes were counted as cast. Consequently, no Democrat in the U.S. Congress cast a single vote for any nineteenth century civil rights measure after the thirteenth amendment, and northern Democrats became the pivotal defenders of southern

electoral violence and disfranchisement.⁶⁷ Republican party interest in southern black votes, very high during Reconstruction, moderated particularly after the party's northern sweep in the 1894 elections. The interests of southern whites, particularly elite southern whites, in not paying the taxes that would have been required to finance equal public services for African-Americans added policy content to prejudice, and from the 1880s or 90s until the 1950s and 60s, it outweighed the countervailing push among blacks for expanded services and the higher taxes required to finance them.

(Figure 2 about here.)

But what Figure 2 most emphasizes is the importance of the three institutional factors in facilitating and later, reversing suffrage restrictions. First, the Supreme Court's opinions in the *Reese* and *Cruikshank* cases in 1876 hamstrung the 1870-71 national Supervisory Laws,⁶⁸ and its 1898 and 1903 opinions in *Williams v. Mississippi* and *Giles v. Harris* made it much more

⁶⁷Kousser, *Colorblind Injustice*, 39.

⁶⁸See my review of Robert M. Goldman, *Reconstruction and Black Suffrage: Losing the Vote in Reese and Cruikshank*, <<http://www2.h-net.msu.edu/reviews/showrev.cgi?path=179141046324369>>. *Cruikshank*, 92 U.S. 542 (1876), required that the government charge and prove that the seventy or so African-Americans who died in the "Colfax Massacre" were murdered because of their race. *Reese*, 92 U.S. 214 (1876) ruled that the discriminatory use of a voting requirement was not illegal because the Section 3 of 1870 Enforcement Act did not repeat an earlier statement in the law that the discrimination had to be by race.

difficult to attack southern state constitutional suffrage restrictions.⁶⁹ In bookend fashion, a later Supreme Court's decisions outlawed the white primary and facilitated attacks on state restrictions, as well as validating the national Voting Rights Act.⁷⁰ Of these decisions, only the last, *South Carolina v. Katzenbach*, represented a strong surge of national opinion; on the others, opinion was deeply (1876) or shallowly (1898, 1903, 1944) divided. The Supreme Court is not a transparent conductor of some unified national public opinion; whatever they pretend, the justices make policy. Second, the Senate filibuster killed the 1875 Elections Bill ("the Force Bill"), the 1890 Lodge Elections Bill (also called "the Force Bill"), and numerous anti-poll tax and anti-lynching bills through the 1940s. Only a shift toward civil rights by the extraordinarily-gifted and opportunistic legislative leader, Lyndon Johnson, and a residual warmth toward civil rights in the leadership of the Republican party beat civil rights filibusters in 1957, 1960, and 1964. A landslide Democratic election in 1964 passed the first effective national voting rights

⁶⁹See R. Volney Riser, *Defying Disfranchisement: Black Voting Rights Activism in the Jim Crow South, 1890-1908* (Baton Rouge, Louisiana: Louisiana State University Press, 2010). *Williams*, 170 U.S. 213 (1898) held that it was not enough to show that the Mississippi constitution of 1890 was intended to disfranchise blacks, unless it was proven to have that effect. *Giles*, 189 U.S. 475 (1903), held that a proof of both the discriminatory intent and effect of the 1901 Alabama constitution was not enough; disfranchisement was a "political question," not subject to judicial interference.

⁷⁰See Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (New York: Columbia University Press, 1976).

law in 94 years.⁷¹ Had the filibuster not been available as a tool, the forces promoting and maintaining black disfranchisement could not have prevailed, and even if they had, the forces pushing for franchise equality would have had much more incentive to make it a national issue sooner than the 1960s, because they would have had a much less difficult obstacle to overcome. Third, the last of the institutions that shaped the nation's civil rights policies, federalism (the division of governmental powers between national and state governments), preserved most power over electoral rules to the states. Courts often deferred to the states, even after the passage of the 14th and 15th amendments, and the density of state and local electoral regulations made it easy for those governments to engage in subtle discrimination and difficult for national authorities or federal judges to fashion tools to protect minority rights, even when they desired to intervene. Without state semi-autonomy, uncommon in other countries, the white South could not, by itself, have disfranchised blacks or maintained a white electoral monopoly for so long and, on the other hand, northern African-Americans and their white allies could not have comprised an increasingly large and insistent voting bloc that pressed successfully for national voting rights laws in the 1950s and 60s. Federalism both enabled black disfranchisement and helped prepare the way to unravel it.

As five members of the Supreme Court invoke federalist principles to reverse the direction of voting rights law, and as Senate Republicans make unprecedented use of the filibuster to block legislation and executive and judicial nominations that they oppose, the history of the way these institutions have been used to contract and then expand minority voting rights should be of increased interest to the historical profession and the public.

⁷¹Lawson, *Black Ballots*.

Similar schematic figures could be proposed for other policies or areas of concern. They would feature different values and interests – class, economic, gender, or religious, for example – they would involve different institutions, and they might model different outcomes, or at least similar outcomes at different times. The point of the schemas is to remind us that race relations is never an autonomous sphere, that it always overlaps with other human concerns, and that institutions, which may inherently or originally have little to do with racial matters, may very directly shape racial policy.

The historiography of the Jim Crow Thesis may be faulted for engaging largely in pure descriptions of racial practices, unsystematically measured; for a concentration solely on racial and even gender attitudes as causes of racially-oriented behavior; for a refusal to take the possibility of less discriminatory policies seriously; and, most of all, for a failure to examine the influence and workings of institutions in shaping racial policy. These intellectual mistakes should be avoided in any reconsideration of the Jim Crow Thesis, which is timely, as we seem to be transitioning to yet another era of race relations, moving backward, toward more racial segregation and more restrictions on minority voting rights. What differentiated the Jim Crow Era, what made discrimination in sphere after sphere solidify after 1890 and move synchronously for so long was the disfranchisement of African-Americans by law, a disfranchisement made possible only by the three institutional levers spotlighted in Figure 2. The larger analysis presented above also suggests the benefits of extending the themes that Woodward introduced to the study of other systems of race relations.

VI. Deviations

But historians have largely abjured such investigations and the methods and theories of the social sciences that are necessary to carry them out, or even to understand the studies that social scientists do perform, and historians' divergence from the path Woodward began to lay out has impeded any desires they might have had to affect public policy, directly or indirectly. The cultural turn in history and the disillusionment with politics and even the notion of truth that followed the disasters of 1968 (Paris, Prague, Mexico City, Chicago, and the assassinations of Martin Luther King, Jr. and Robert Kennedy)⁷² helped to replace the history of race relations with two varieties of identity history: what might be called minority agency history and whiteness studies.

Although studies of the history of non-white groups in America have many virtues, they often suffer from an inability or unwillingness to weigh the importance of their topics to larger national themes. In rescuing their subjects from anonymity, scholars sometimes give way to the desire to make every person, every action, every topic profoundly influential – janitors as potent as judges, attending meetings as effective as passing laws, signing petitions as crucial to overthrowing slavery as lecturing to thousands.⁷³ Just as important, minority history tends to

⁷²Joyce O. Appleby, *Knowledge and Postmodernism in Historical Perspective* (New York: Routledge, 1996).

⁷³E.g., Robin D.G. Kelley, “‘We Are Not What We Seem’: Rethinking Black Working Class Opposition in the Jim Crow South,” *Journal of American History*, 80 (1993), 75-112; Tera Hunter, *To ‘Joy My Freedom’: Southern Black Women’s Lives and Labors After the Civil War*

insulate its subjects, even to segregate them, as though a black economics, politics, or society could exist in America without being profoundly affected by the dominant white society or without having their own considerable effects on white groups.⁷⁴ While the separate study of African-Americans, Native Americans, Latinos, and Asian-Americans will continue to make significant contributions, it is time that it paid more attention to the older topic of interactions among these groups and between these groups and Anglos, and it is well to remind ourselves again that to grant everyone agency is to deny anyone real power, which is profoundly unrealistic and, more important, unproductive for the larger, continuing struggle for equality.

If agency history is sometimes “feel good” history, whiteness studies is “feel bad” history, Ulrich B. Phillips’s “central theme” writ national, but spun differently, to induce guilt, instead of to celebrate triumph – consciousness-raising for the skin-privileged.⁷⁵ It ignores

(New York: Cambridge University Press, 1997); Elsa Barkley Brown, “Negotiating and Transforming the Public Sphere: African American Political Life in the Transition from Slavery to Freedom,” in Dailey *et al.*, *Jumpin’ Jim Crow*, 28-66; C. Peter Ripley, Roy E. Finkenbine, Michael F. Hembree, and Donald Yacovone, eds., *Witness for Freedom: African American Voices on Race, Slavery, and Emancipation* (Chapel Hill, North Carolina: University of North Carolina Press, 1993). For a gentle critique of such studies, see Barbara J. Fields, “Origins of the New South and the Negro Question,” *Journal of Southern History*, 67 (2001), 811-26.

⁷⁴E.g., Robin D.G. Kelley, *Race Rebels: Culture, Politics, and the Black Working Class* (New York: Free Press, 1996).

⁷⁵In its focus on the northern white working class and immigrants who settled primarily

systematic change and variation, ignores generations of social scientific studies of assimilation and group formation and divergence, ignores class, religious, and persistent ethnic divisions that often had large effects on the way non-whites and various white subgroups interacted, whether they were able to cooperate directly or indirectly, whether intra-racial divisions allowed minorities room for maneuver.⁷⁶ Timeless and homogenized, too vague to test and too cultural to care, whiteness studies cannot contribute to the central task of the history of race – to bring about racial equality.

To supplement minority identity history, historians should take up more large-scale, comparative analyses of the rises and falls of ethnically discriminatory laws and practices of every sort, the explanations for those patterns, and the relationships between those patterns and other patterns of discrimination. To give just two examples: Why did different southern states

in the North, whiteness studies might be considered the Yankee counterpart of Williamson's southern-focused *Crucible of Race*, discussed earlier.

⁷⁶See, e.g., Roediger, *Wages of Whiteness*; Jacobson, *Whiteness of a Different Color*; Michelle Brattain, *The Politics of Whiteness: Race, Workers, and Culture in the Modern South* (Athens, Georgia: University of Georgia Press, 2004); Grace Elizabeth Hale, *Making Whiteness: The Culture of Segregation in the South, 1890-1940* (New York: Pantheon Books, 1998); George Lipsitz, *The Possessive Investment in Whiteness: How White People Profit from Identity Politics* (Philadelphia: Temple University Press, 1998); Ruth Frankenberg, *White Women, Race Matters: The Social Construction of Whiteness* (Minneapolis, Minnesota: University of Minnesota Press, 1993).

adopt Jim Crow railroad and streetcar segregation laws at different times? And how different were the patterns of the adoption of laws facilitating and constraining discrimination in jobs and property acquisition by race and by gender? What do such patterns imply for larger questions of changes in racial and gender relations? Fortunately, one virtue of federalism is that it provides us with a natural laboratory for assessing such questions. Statisticians have provided the tools, tools historians have yet to discover, but which they need, for there is much productive work to be done.⁷⁷

VII. Dedication

Today, as much as seventy-five years ago, when Woodward began his historical career, the world needs changing, and just as much as then, historians' work can help foster desirable – or undesirable – change. Indeed, in areas of history that affect or potentially affect public policy, we can be sure that versions of history will be employed, often the biased history of policy gladiators, whether professional historians, trained in the healthy critical give and take that sharpens the discipline, choose to enter the arena or not. Professional reticence will not mean that history isn't used, only that it will be used badly. When Chief Justice John Roberts

⁷⁷See Kousser, “Onward March of Right Principles;” Janet M. Box-Steffensmeier and Bradford S. Jones, *Event History Modeling: A Guide for Social Scientists* (New York: Cambridge University Press, 2004); Anthony Y. Chen, *The Fifth Freedom: Jobs, Politics, and Civil Rights in the United States, 1941-1972* (Princeton, New Jersey: Princeton University Press, 2009).

announced in *Parents Involved* that “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race,”⁷⁸ he may have been merely restating a “colorblind” ideological statement as a catch-phrase. But he could also be taken to have offered an empirical, potentially testable generalization: Is the reason that racial discrimination in education and other areas of social life has declined since the 1950s that government began to ignore race in framing regulations? To put it more generally, does legally-explicit discrimination *between* persons because of race or ethnicity always and inevitably lead to discrimination *against* members of disadvantaged minority groups? Or in the *Shelby County* voting rights case, Chief Justice Roberts condemned the coverage scheme that required certain jurisdictions, particularly those in the Deep South, to submit changes in election laws for preclearance as “a formula based on 40-year-old facts having no logical relation to the present day.”⁷⁹ He did not, however, consider whether the formula had an empirical relation to present-day discrimination. Historians might have much important research to contribute to the examination of the questions raised by the Chief Justice’s unevidenced assertions, as they have done so usefully in contributing *amicus curiae* briefs to the Supreme Court in gay rights and gun control cases and as they have attempted to do in recent voting rights cases.⁸⁰

⁷⁸*Parents Involved in Community Schools*, 748, is briefly discussed in Section IV, above.

⁷⁹*Shelby County v. Holder*, 133 S.Ct. 2612 (2013), slip opinion at 21-22.

⁸⁰See “Brief of the Organization of American Historians and the American Studies Association as Amici Curiae in Support of Respondents,” *Hollingsworth v. Perry*, 130 S.Ct. 2432 (2013); <<http://38.106.4.56/Modules/ShowDocument.aspx?documentID=1196>>; “Brief of

Of course, the principal means of communication for historians are articles and monographs and courses. And there is plenty of work for historians to do not only in reexamining the original intent of ordinances, statutes, and constitutional provisions, charting the development of and attacks on minority rights, commenting and testifying, but also in deepening public and student understanding of the context and background in which the events took place. The fulfillment of such public duties – the reconstruction of the civic purpose of the profession -- should be publicly recognized and encouraged by the history profession, instead of, as at present, ignored or, as it was by several of Woodward’s critics, derided.⁸¹

Amici Curiae Jack N. Rakove, Saul Cornell, David t. Konig, William J. Novak, Lois G. Schworer et al., in Support of Petitioner,” *District of Columbia v. Heller*, 554 U.S. 579 (2008), <http://www.scotusblog.com/wp-content/uploads/2008/01/07-290_amicus_historians.pdf>; “Brief Amici Curiae of Historians and Other Scholars in Support of Petitioners,” *Crawford v. Marion County*, 553 U.S. 181 (2008), <<http://moritzlaw.osu.edu/electionlaw/litigation/documents/Rokita-BriefamicuscuriaeofHistorians.pdf>>; “Brief of Historians and Social Scientists as Amici Curiae in Support of Respondents,” *Shelby County v. Holder*, <<http://sblog.s3.amazonaws.com/wp-content/uploads/2013/02/12-96bsacHistoriansSocialScientists.pdf>>

⁸¹According to Kevin Mattson, “History Lesson: Those who don’t know history are doomed to distort it – and our political discourse,” *Democracy* (Winter, 2006), 79-87 <<http://www.democracyjournal.org/article.php?ID=6506>> , “To be ‘presentist,’ to care about what the public is thinking and worried about and to try to shed historical light on such concerns,

Woodward inspired, marched in Montgomery, testified in Congress, all without compromising his commitment to the highest standards of scholarship. That his scholarship had effects at the highest levels of power and in ways he could not have initially foreseen may be illustrated by a simple anecdote. When Woodward and I testified on June 24, 1981 before the House Judiciary Committee Subcommittee on Civil and Constitutional Rights in favor of renewing and strengthening the Voting Rights Act, the presiding officer much of the time was a freshman congressman from Chicago named Harold Washington. That afternoon, I was sitting in the audience listening to further testimony by eminent voting rights lawyers when Rep. Washington took a long walk from behind the dais to sit down next to me and ask whether Prof. Woodward was still around. After I explained that Woodward had returned to New Haven to care for his wife, who was ill, Washington, two years from becoming Chicago's first and only black mayor, remarked how honored he had been to listen to Woodward, whose *Strange Career of Jim Crow*, he said, he had read in college and been inspired by ever since. Those of us who wish to honor C. Vann Woodward's legacy have much to do. We might start by re-dedicating ourselves to his principles.

is [for historians] to perform career suicide.” (81) By contrast, Mattson's model in the article of what a historian should do is Woodward's *Strange Career*.

Figure 1: Forces and Institutional Barriers
Preventing Public Accommodations Integration

white supremacy
ideology

equal opportunity
ideology

white willingness
to pay for black
inequality

expanded customer
base for business

gaps in North

Segregation laws

Figure 2: Institutions, Values, and Interests in Black Voting Rights

